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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,132	03/09/2001	Georges Driesen	B-06304	8952

7590 06/05/2003  
Edward S. Podszus  
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EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 06/05/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/803,132

Applicant(s)

DRIESEN ET AL.

Examiner

Gary K Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-62 is/are pending in the application.
- 4a) Of the above claim(s) 25-27, 42, 45-48 and 50-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24, 28, 30, 32-37, 39-41, 43, 44 and 49 is/are rejected.
- 7) ☒ Claim(s) 29, 31 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group I, the toothbrush bristle and carrier together forming a toothbrush as well as the figure 2 species, in Paper No. 8 is acknowledged.

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the carrier together with the bristle forming a toothbrush must be shown or the feature(s) canceled from the claim(s). No carrier has been shown which supports a bristle. Also, a monofilament with a helical structure on the circumferential surface has not been shown. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24, 30, 32-35 and 39-41 rejected under 35 U.S.C. 102(b) as being anticipated by Bond et al '208.

The patent to Bond discloses the invention as is claimed. While Bond discloses his device as a paintbrush, such could be used for any purpose so desired, including tooth brushing. Setting forth the device as a “toothbrush” relates to the intended use of the device and does not impart structure to the brush. Bond sets forth a polyamide monofilament bristle (1, fig.1), having multiple adjoining zones which are separated by fusion lines (2). The fusion lines also have voids (3) therein. Such fusion lines are considered to be regions of preferred breaking between the zones, especially since such contain voids which would act to weaken the fusion line with respect to the zones. Note that claim 1 does not define separated zones, only that there is a region of preferred breaking. It appears Bond would have such a region.

With respect to claim 30, the zone will have at least one colorant.

Claims 24, 30, 32, 34-35 and 39 rejected under 35 U.S.C. 102(b) as being anticipated by Cansler '087.

The patent to Cansler discloses the invention as is claimed. While Cansler discloses his device as a paintbrush, such could be used for any purpose so desired, including tooth brushing. Setting forth the device as a "toothbrush" relates to the intended use of the device and does not impart structure to the brush. Reference is made to figure 1B of Cansler. Bristle (5) is a monofilament that has regions co-extruded and refused together. Cansler discloses that the seams where the refusing occurs are weakened and can lead to fracture. Such refuse lines are considered to be regions of preferred breaking between the zones as is claimed. Note that claim 1 does not define separated zones, only that there is a region of preferred breaking. It appears Cansler would have such a region.

With respect to claim 30, the zone will have at least one colorant.

Claims 24, 28, 30, 34-36, 39-41, 43, 44 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Hans et al '853.

The patent to Hans discloses the invention as is claimed. Hans sets forth a polyamide bristle (12, fig.3A), having multiple adjoined zones (3b) which are separated by fusion lines. Such fusion lines are considered to be regions of preferred breaking between the zones as is set forth by Hans. Mechanical manipulation can be employed to separate the zones. Note that claim 1 does not define separated zones, only that there is a region of preferred breaking. It appears Hans would have such a region.

Note that while Hans takes strands (13-15) and solvent welds them, such is considered to form a single bristle or "monofilament". This appears consistent with applicant taking multiple filaments (14, figure 2b) and refusing them to form a monofilament. Applicant has taken multiple filaments and fused them to define a monofilament. Hans has done the same thing.

With respect to claim 30, the zone will have at least one colorant.

Claims 24, 28, 30, 33-36 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitjer '590.

While Fitjer discloses his device as a mascara brush, such could be used for any purpose so desired, including tooth brushing. Setting forth the device as a "toothbrush" relates to the intended use of the device and does not impart structure to the brush. The patent to Fitjer discloses the invention as is claimed. Fitjer sets forth a bristle (3), having multiple adjoined zones (4) which are separated by adhesive. Such adhesive is considered to define regions of preferred breaking between the zones as is set forth by Fitjer. Solvent can be employed to separate the zones. Note that claim 1 does not define separated zones, only that there is a region of preferred breaking. It appears Fitjer would have such a region.

Note that while Fitjer takes fibers (4) and adheres them, such is considered to form a single bristle or "monofilament". This appears consistent with applicant taking multiple filaments (14, figure 2b) and refusing them to form a monofilament. Applicant has taken multiple filaments and fused them to define a monofilament. Fitjer has done the same thing.

With respect to claim 30, the zone will have at least one colorant.

Claims 24, 30, 32-37 and 39-41 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Rackley '906.

The patent to Rackley discloses the invention as is claimed. Rackley sets forth a polyamide monofilament toothbrush bristle (10, fig. 5A), having multiple adjoining zones which are separated by fusion lines which contain voids (20) therein. Such fusion lines are considered to be regions of preferred breaking between the zones, especially since such contain voids which would act to weaken the fusion line with respect to the zones. Rackley clearly sets forth that the voids act to provide optimal splitting of the bristles, thus providing the region of preferred breaking. Also, note that claim 1 does not define separated zones, only that there is a region of preferred breaking. It appears Rackley would have such a region.

With respect to claim 30, the zone will have at least one colorant.

With respect to claim 36, note that the bristles are flagged or split over a longitudinal length which can be considered to be the "preferred" breaking region.

With respect to claim 43, the shape shown in figure 5A of Rackley is considered to be a multiple-leaf clover as is claimed, in at least the broadest sense.

#### *Allowable Subject Matter*

Claims 29, 31, 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 703-308-1270. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'G. K. Graham', is positioned above the printed name.

Gary K Graham  
Primary Examiner  
Art Unit 1744

GKG  
June 2, 2003